

## **REMARKS**

The Non-final Office Action dated March 18, 2011 (referred to hereinafter as “the Office Action”), has been received and reviewed. Claims 29, 33, 37, 41, 43, and 45-47 are pending in the application. Claims 1-28, 32, 36 and 40 were previously canceled. Claims 30-31, 34-35, 38-39, 42, and 44 are currently canceled. Amendments to the claims involve adding subject matter to the independent claims that was previously presented in claims that depended therefrom. No new matter has been added.

Applicant respectfully requests reconsideration of the application in light of the remarks below.

### ***Claim Objections***

#### **Objection to Claim 44**

In section 3 of the Office Action, claim 44 stands objected to for dependence upon claim 44. By this amendment, claim 44 has been canceled.

Accordingly, the objection to claim 44 has been overcome and withdrawal thereof is respectfully requested.

### ***Claim Rejections - 35 U.S.C. § 103***

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974); *see also* MPEP § 2143.03. Additionally, the Examiner must determine whether there is “an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1740-1741, 167 L.Ed.2d 705, 75 USLW 4289, 82 U.S.P.Q.2d 1385 (2007). Further, rejections on obviousness grounds “cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id* at 1741, quoting *In re Kahn*, 441, F.3d 977, 988 (Fed. Cir. 2006). Finally, to establish a *prima facie* case of obviousness there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Furthermore, the reason that would have prompted the combination and the reasonable expectation of success must be found in the prior art, common

knowledge, or the nature of the problem itself, and not based on the Applicant's disclosure.

*DyStar Textilfarben GmbH & Co. Deutschland KG v. C. H. Patrick Co.*, 464 F.3d 1356, 1367

(Fed. Cir. 2006); MPEP § 2144. Underlying the obvious determination is the fact that statutorily prohibited hindsight cannot be used. *KSR*, 127 S.Ct. at 1742; *DyStar*, 464 F.3d at 1367.

Applicant respectfully submits that the 35 U.S.C. § 103(a) obviousness rejections of claims 29, 33, 37, 41, 43, and 45-47 as presented herein are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art references must teach or suggest all the claims limitations.

### **I. Independent Claims 29, 33, 37**

In the Office Action, claims 29-31, 33-35 and 37-39 stand rejected as being unpatentable over U.S. Patent No. 6,515,975 to Chheda *et al.* ("Chheda") in view of U.S. Patent No. 6,571,104 to Nanda *et al.* ("Nanda") and further in view of U.S. Patent No. 6,567,391 to Moon ("Moon"). Applicant respectfully traverses this rejection, as hereinafter set forth.

Claim 29, as presented herein, recites,

"A method, comprising:

detecting an unbalanced quality of power control signals from a wireless device simultaneously received at a plurality of base station transceivers involved in a soft handoff, wherein the unbalanced quality is determined based on qualities of power control signals from each of the plurality of base station transceivers involved in the soft handoff;

increasing a target signal-to-noise ratio (SNR) of a reverse link pilot channel carrying at least one of the power control signals for at least one of the plurality of base station transceivers when the quality of the at least one of the power control signals for the at least one of the plurality of base station transceivers is below a predefined target signal quality;

increasing a pilot channel transmit power level of the pilot channel transmitted by the wireless device during the soft handoff in response to the at least one of the plurality of base station transceivers; and

decreasing a power gain of other channels transmitted by the wireless device in relation to the increased transmit power level of the pilot channel of the wireless device during the soft handoff, wherein the power gain of other channels in relation to the pilot channel is decreased by an amount that is more than an amount by which the pilot channel transmit power level is increased" (emphasis added).

Applicant's independent claim 29 includes claim limitations not taught or suggested in the cited references. Applicant respectfully submits that none of Chheda, Nanda, and Moon teach "wherein the power gain of other channels in relation to the pilot channel is decreased by an amount that is more than an amount by which the pilot channel transmit power level is increased" as claimed. Thus, the combination of Chheda, Nanda, and Moon fail to form the basis of valid rejection of Claim 29 under 35 U.S.C. 103(a).

The Office Action admits, "Chheda et al., as modified by Nanda et al., fail to increase the transmit power level of the pilot channel from the wireless device decrease a power gain of other channels."

To cure this deficiency, the Office Action states,

"In the same field of endeavor, Moon clearly shows and discloses increasing a pilot channel transmit power level of the pilot channel transmitted by the wireless device during a handoff in response to the at least one of the plurality of base station transceivers (mobile station increases transmission power [fig. 2, col. 3 lines 46-65, col. 6 lines 6-14]); and decreasing a power gain of other channels transmitted by the wireless device in relation to the increased transmit power level of the pilot channel of the wireless device during the handoff (total transmission power is not changed; with some traffic channels decreasing transmission power [fig. 2, col. 3 lines 46-65, col. 6 lines 6-14])" (Office Action, p. 4, line 15 – p. 5, line 2).

Applicant respectfully submits that the arguments offered in the Office Action do not address the limitations of Claim 29 as presented herein. Moon teaches decreasing transmission power of traffic channels and increasing power of pilot channels, but the total transmission power either remains the same or increases over the duration. See *Moon, col. 3, lines 55-65, Fig. 2, and col. 4, lines 47-61, Fig. 3*. Claim 29 recites, "the power gain of other channels in relation to the pilot channel is decreased by an amount that is more than an amount by which the pilot channel transmit power level is increased". Moon fails to teach the claim limitation because Moon's teachings are limited to power gains of traffic channels that are either the same as the amount the pilot channel transmit power level is increased (constant total transmission power) or less than the amount the pilot channel transmit power level is increased (increased total transmission power). For at least this reason Moon fails to teach "wherein, the power gain of

other channels in relation to the pilot channel is decreased by an amount that is **more** than an amount by which the pilot channel transmit power level is increased” as claimed.

For at least these reasons, the combination of Chheda, Nanda, and Moon fail to teach or suggest all of the claim limitations, and thus fail to form the basis of valid rejection of Claim 29 under 35 U.S.C. 103(a). Accordingly, Applicant respectfully requests reconsideration of the rejection under 35 U.S.C. §103 and allowance of independent claim 29.

Claims 33 and 37 recite limitations similar to Claim 29 and are allowable for the same reasons as Claim 29. Accordingly, Applicant respectfully requests reconsideration of the rejections under 35 U.S.C. §103 and allowance of independent claims 33 and 37.

## **II. Claim 41**

Claim 41 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Chheda et al. (US 6,515,975) in view of Nanda et al. (US 6,571,104) (Office Action, p. 13, lines 1-2).

Applicant respectfully traverses this rejection, as hereinafter set forth.

Claim 41 as presented herein recites,

“A method, comprising:

receiving a first forward link power control signal from a wireless device by a first base station transceiver involved in a soft handoff, wherein the first forward link power control signal is communicated over a first reverse link power control sub-channel of a first reverse link from the wireless device to the first base station transceiver; receiving a second forward link power control signal from the wireless device by a second base station transceiver involved in the soft handoff, wherein the second forward link power control signal is communicated over a second reverse link power control sub-channel of a second reverse link from the wireless device to the second base station transceiver, wherein the first and second forward link power control signals are transmitted by the wireless device simultaneously; and increasing a target signal-to-noise ratio (SNR) of the first reverse link power control sub-channel when the detected quality of the first forward link power control signal is below a predefined target signal quality, wherein the target signal-to-noise ratio of the first reverse link power control sub-channel is increased by decreasing a target frame error rate associated with the first reverse link or is increased based on a bit error rate of the first forward link power control signal” (emphasis added).

Applicant’s independent claim 41 includes claim limitations not taught or suggested in the cited references. None of Chheda, Nanda, and Jalali teach “wherein the target signal-to-noise ratio of the first reverse link power control sub-channel is increased based on a bit error rate of

the first forward link power control signal” as claimed. Thus, the combination of Chheda, Nanda, and Jalali fail to form the basis of valid rejection of Claim 41 under 35 U.S.C. 103(a).

The Office Action states, “Chheda et al. as modified by Nanda et al. clearly show and disclose the claimed invention target signal-to-noise ratio of the first reverse link power control sub-channel is increased based on a bit error rate” (Office Action, p. 16, lines 8-11). Applicant respectfully disagrees with this assertion, and submits that neither Chheda nor Nanda teach increasing a target signal to noise ratio of a reverse link power control sub-channel based on a bit error rate. Chheda does not teach changing a target SNR of a reverse link power control channel at all. Nanda teaches changing a target SNR of a reverse link power control channel based on maintaining a desired frame error rate, but does not teach a bit error rate at all.

The Office Action further states,

“In the same field of endeavor, Jalali et al. clearly show and disclose wherein the target signal-to-noise ratio of the first reverse link power control sub-channel is increased based on a bit error rate of the first forward link power control signal (reverse link frame error rate provides an indication of the fast forward link power control bit error rate for that particular base station [col. 11 lines 29-40]) (Office Action, p. 16, lines 12-16).

Applicants respectfully disagree. First, Jalali does not teach increasing a target SNR of a reverse link power control sub-channel. Jalali teaches adjusting the gains of base stations on the forward link based on reverse link signal quality. *See Jalali, col. 11, lines 22-27.* Second, the notion that a reverse link frame error rate provides an indication of a fast forward link power control bit error rate does not teach that a target signal-to-noise ratio of the first reverse link power control sub-channel is increased based on a bit error rate of the first forward link power control signal as claimed.

For at least these reasons, the combination of Chheda, Nanda, and Jalali fail to teach or suggest all of the claim limitations, and thus fail to form the basis of valid rejection of Claim 41 under 35 U.S.C. 103(a). Accordingly, Applicant respectfully requests reconsideration of the rejection under 35 U.S.C. §103 and allowance of independent claim 41.

**III. Claims 43 and 45-47**

The nonobviousness of independent claim 41 precludes a rejection of claims 43 and 45-47, which depend therefrom, because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) obviousness rejection to independent claim 29 and claims 43 and 45-47 which depend therefrom.

**CONCLUSION**

In view of the foregoing, Applicants respectfully submit that all pending claims in the present application are in a condition for allowance, which is earnestly solicited. Should any issues remain unresolved, the Examiner is cordially invited to telephone the undersigned at the number provided below.

The Commissioner is authorized to charge any fees or overpayments that may be due with this response to Deposit Account No. **17-0026**.

Respectfully submitted,

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